

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CARL C. GILBERT, JR,

Plaintiff,

v.

ORDER

10-cv-157-bbc

JAMES DOYLE, DEPARTMENT OF HEALTH
AND FAMILY SERVICES, SHARON NELSON,
BUREAU OF HEALTH SERVICES, DEPARTMENT
OF CORRECTIONS, DIVISION OF ADULT
INSTITUTIONS, KAREN E. TIMBERLAKE,
RICK RAEMISCH, TED WESTFIELD,
WILLIAM GROSSHAN, SHARON K. ZUNKER,
CYNTHIA THORPE, SARAH KEPPERT, JAMES GREER,
DAVID BURNETT, BARBARA E LAP, KEVIN KALLAS,
DONALD HANDS, SCOTT HOFTIEZER,
WISCONSIN ICI-SYSTEM PERSONNEL,
KAREN GOURLIE, AMY SMITH, TOM GOZINSKE,
ANGEL E. KROLL, THEREASA, MICHAEL THURMER,
MICHAEL MIESNER, CAPT. MELI, DANIEL BRAEMER,
STEVEN WIERENGA, BENJAMIN HILBERT,
SGT. TORCHISKI, SGT. LARSON, SGT. TRITT,
SGT. BEASLEY, SGT. KIMBALL, SGT. TAYLOR,
CAPT. GEMPLER, LT. GREEF, CAPT. HOLM,
CAPT. O'DONOVAN, KEVIN WEBSTER, C.O. II CAUL,
C.O. CARLSON, C.O. WOOD, C.O. BEAHM,
C.O. MASON, C.O. JONES, C.O. GIZA, C.O. TRITT,
GARY ANKARLO, JEFFREY GARBELMAN, STELLA NESS,
JENNY STADTMULLER, JANET JOHNSTON,
GRACE BROWN, DR. FISCHER, TODD CALLISTER,
RALPH FROELOCH, BELINDA SCHRUBBE,

PAUL SUMNIGHT, MARY GORSKE,
CHARLENE S. REILTZ, JUDY SCHAEFER,
PATTY CARREN, GAIL WALTZ,
FRANCIS MONROE-JENNING, KIM SCHMIDT,
MARK JENSEN, SANDY JACKSON, JULIE HOOPER
and JOHN DOES/JANE DOES,

Defendants.

In a June 18, 2010 order, I dismissed plaintiff Carl Gilbert's complaint because it violated Fed. R. Civ. P. 8 (and likely Rule 20 as well), and gave him another chance to file a complaint that complies with the Federal Rules of Civil Procedure. Even after plaintiff was granted a motion for extension of time to August 23, 2010 to file his amended complaint, he failed to do so. Judgment was entered August 31, 2010. Now plaintiff has submitted a motion for reconsideration of several aspects of the June 18 order.

First, plaintiff argues that I was incorrect in ruling that his complaint violated Rule 8. I will deny this motion because plaintiff provides no support for his argument. I stand by my conclusion that his 69-page complaint against more than 60 named defendants (and 280 John Doe defendants) fails to include "short and plain statements" of his claims, as is required by Rule 8.

Next, plaintiff argues that I was incorrect in stating that he was a prisoner rather than a patient and thus subject to the "three strikes rule" in 28 U.S.C. § 1915(g). Plaintiff's position is that he was civilly committed under Wis. Stat. Chap. 980 and was illegally incarcerated at the Waupun Correctional Institution. He provides documents showing that his parole was revoked in 2007 and that he was ultimately released from prison on August

28, 2010. These documents only support the fact that plaintiff was legally incarcerated on May 27, 2010, the day that he filed his complaint in this court. This date determines whether a plaintiff is a prisoner, not the current date.

Finally, plaintiff argues that I was incorrect in denying his motion asking the court to compel prison officials to provide him an extension of his legal loan. However, plaintiff again fails to provide any reasons for why he believes this ruling was incorrect. As I stated in the June 18, 2010 order, the Court of Appeals for the Seventh Circuit has held that the Constitution does not require the state of Wisconsin to subsidize the costs of plaintiff's lawsuit. Lindell v. McCallum, 352 F.3d 1107, 1111 (7th Cir. 2003). Moreover, I note that it does not appear that plaintiff has been restricted from pursuing this lawsuit; he was able to file a 69-page complaint as well as other submissions in both this case and he has another case before the court.

ORDER

IT IS ORDERED that plaintiff Carl Gilbert's motion for reconsideration of the court's June 18, 2010 order in this case, dkt. #15, is DENIED.

Entered this 21st day of October, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge